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Defendants / Counterclaim-Plaintiffs /
Third Party Plaintiffs William T. Butler,
Kristen Butler, and Arieyl, LLC

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MY DAILY CHOICE, INC.,

Plaintiff/
Counterclaim-Defendant,

v.

WILLIAM T. BUTLER;
KRISTEN BUTLER; and ARIEYL, LLC,

Defendants/
Counterclaim-Plaintiffs/
Third Party Plaintiffs,

v.

JOSH ZWAGIL, JENNA ZWAGIL, and
KARLI THOMAS,

Third Party Defendants.

MY DAILY CHOICE, INC.,

Plaintiff,

v.

MARISSA BROOKE DONNELL,

Defendant.

Case No. 2:20-cv-02178-JAD-NJK

**STIPULATION AND ORDER
STAYING CASE UNTIL 4/21/22**

ECF No. 109

Case No. 2:20-cv-02225-JAD-NJK

1 MY DAILY CHOICE, INC.,
2 Plaintiff,
3 v.
4 SKYLAR LAMBERT,
5 Defendant.

Case No. 2:20-cv-02228-JAD-NJK

6 MY DAILY CHOICE, INC.,
7 Plaintiff,
8 v.
9 DANIELLE LITUSKI and CHAD LITUSKI,
10 Defendants.

Case No. 2:20-cv-02232-JAD-NJK

12 Pursuant to LR IA 6-2 and LR 7-1, Plaintiff/Counter Defendant My Daily Choice, Inc. and
13 Third Party Defendants Josh Zwagil, Jenna Zwagil, and Karli Thomas, on the one hand, and
14 Defendants/Counterclaimants/Third Party Plaintiffs Arieyl, LLC, William Butler, and Kristen
15 Butler and Defendants Skylar Lambert, Danielle Lituski, and Chad Lituski, on the other
(collectively, “the Parties”), by and through their respective counsel of record, hereby stipulate
16 and request that this Court stay this case and all pending deadlines for a period of 39 days to allow
17 the Parties to complete a mediation, which is scheduled for April 7, 2022. The Parties request that
18 the stay will continue until and expire on April 11, 2022 unless a settlement is reached or unless
19 the Parties inform the Court on or before April 11, 2022 that a settlement has been reached or that
20 the Parties are close to settling the case and require additional time to finalize settlement. This is
21 the first request for a stay of the case.
22
23

24 In support of this Stipulation, the Parties state as follows:

25 1. Plaintiff My Daily Choice, Inc. (“MDC”) filed its Complaint in this matter against
26 Defendants William T. Butler, Kristen Butler, and Arieyl, LLC (the “Arieyl Parties”) on November
27 30, 2020. See ECF No. 1.

1 2. MDC separately filed lawsuits against Defendants Marissa Brooke Donnell,¹
 2 Skylar Lambert, and Danielle and Chad Lituski. Those cases were consolidated into this action.
 3 *See ECF No. 42.*

4 3. On October 7, 2021, the Arieyl Parties filed their Counterclaim and Third Party
 5 Complaint, alleging claims against MDC and Third Party Defendants Jenna Zwagil, Josh Zwagil,
 6 and Karli Thomas. *See ECF No. 64.*

7 4. The Parties have been engaged in settlement discussions and believe that a
 8 mediation will assist the Parties in resolving their claims in this matter. In an effort to resolve this
 9 case, the Parties scheduled a mediation with JAMS before the Hon. Peggy Leen (Ret.) to be held
 10 on April 7, 2022 in Las Vegas.

11 5. Pursuant to the current scheduling order, the following deadlines are currently in
 12 effect:

- 13 a. Deadline to complete discovery, other than expert discovery: **July 6, 2022**
- 14 b. Deadline to serve reports from retained experts: **May 9, 2022**
- 15 c. Deadline to serve rebuttal expert reports: **June 8, 2022**
- 16 d. Deadline to file and serve dispositive motions: **August 8, 2022**
- 17 e. Deadline to file and serve joint pre-trial order: **September 6, 2022**, or 30 days
 18 after resolution of dispositive motions

19 *See ECF No. 93.*

20 6. The Parties request that the Court extend those pending deadlines based on the
 21 length of the requested stay as follows:

- 22 a. Deadline to complete discovery, other than expert discovery: July 6, 2022 to
 23 **August 15, 2022**
- 24 b. Deadline to serve reports from retained experts: May 9, 2022 to **June 20, 2022**
- 25 c. Deadline to serve rebuttal expert reports: June 8, 2022 to **July 20, 2022**

26 ¹ Ms. Donnell is *pro se* in this matter. She has not been participating in the litigation or been
 27 responsive to communications from the Parties.

d. Deadline to file and serve dispositive motions: August 8, 2022 to **September 19, 2022**

e. Deadline to file and serve joint pre-trial order: September 6, 2022 to **October 17, 2022**, or 30 days after resolution of dispositive motions

7. The Parties additionally request a stay of resolution of the following matters currently pending before the Court until a settlement is reached or the stay expires, whichever occurs first:

- a. Counterclaim-Defendant My Daily Choice, Inc.’s Motion to Dismiss Defendants’ Counterclaims (ECF No. 80) (filed November 11, 2021) and Third Party Defendants Josh Zwagil, Jenna Zwagil, and Karli Thomas’ Motion to Dismiss Defendants’ Third-Party Complaint (ECF No. 88) (filed December 20, 2021).

- i. The Arieyl Parties filed an omnibus opposition to the motions to dismiss on January 19, 2022 (ECF No. 94), and MDC and the Third Party Defendants jointly filed an omnibus reply in support of their motions on February 2, 2022 (ECF No. 102).

ii. As part of their opposition to the motions to dismiss, the Arieyl Parties requested leave to amend their complaint in the event that its pleading was dismissed. See ECF No. 94. MDC and the Third Party Defendants opposed this request as to certain claims in their reply brief (ECF No. 102), and the Arieyl Parties filed a limited reply in support of the request on February 9, 2022 (ECF No. 105).

b. Plaintiff and Counterclaim-Defendant My Daily Choice, Inc.'s Motion to Compel Forensic Examination (ECF No. 90)

i. This motion was filed on January 7, 2022.

1 ii. The Arieyl Parties filed their response to the motion on January 28, 2022
2 (ECF No. 101), and MDC filed its reply in support of the motion on
3 February 4, 2022 (ECF No. 104).

4 iii. A hearing, which the Parties request be continued until after the stay, is
5 currently scheduled for March 9, 2022 at 1:00 p.m. *See* ECF No. 108. The
6 Parties request that the hearing be rescheduled to the Court's first available
7 date following the expiration of the stay.

8 8. The Parties remain heavily involved in discovery at this time. They are currently
9 engaged in the meet and confer process as to both MDC's requested discovery from the Arieyl
10 Parties and also as to the Arieyl Parties' requests to MDC and the Third Party Defendants.

11 9. A stay of 39 days will allow the Parties to preserve resources pending mediation.
12 Without a stay, the Parties will be required to continue expending funds on this case in the
13 meantime, which will have the result of making a settlement more difficult.

14 10. The Parties request that the stay continue until and expire on April 11, 2022 unless
15 a settlement is reached or unless the Parties inform the Court on or before April 11, 2022 that a
16 settlement has been reached or that the Parties are close to settling the case and require additional
17 time to finalize settlement.²

18 11. In the case a settlement is reached or in the case that the Parties require additional
19 time to finalize settlement, the Parties request that the stay continue in effect indefinitely upon
20 filing of a notice of settlement, with the Parties filing status reports every three weeks thereafter
21 until a stipulation of dismissal is entered and signed by the Court.

22 12. In the case that no settlement is reached, the Parties will file notice on April 11,
23 2022 reflecting the lack of settlement. Under those circumstances, the Parties request that the stay
24 would then expire at 11:59 p.m. on April 11, 2022.

25
26 2 The parties issued limited third-party document subpoenas in January and February 2022 and
27 request that the stay not apply to the production of responsive materials as they may be helpful for
 mediation.

1 13. Additionally, staying resolution of the pending motions before this Court will have
2 the effect of preserving judicial resources in the case that a settlement is reached.

3 14. This request is made in good faith and without any dilatory motive.

4 Accordingly, the Parties stipulated and request that this Court stay this case and all pending
5 deadlines for a period of 39 days to allow the Parties to complete a mediation as set forth herein.

6 IT IS SO STIPULATED.

7 Dated: March 3, 2022.

8 Respectfully Submitted,

9 /s/ Ronald D. Green

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18 Attorneys for Defendants/ Counterclaim-
19 Plaintiffs/ Third Party Plaintiffs William
20 Butler, Kristen Butler, and Arieyl, LLC; and
21 Defendants Skylar Lambert, Danielle Lituski,
22 and Chad Lituski

23 Respectfully Submitted,

24 /s/ Ross M. Campbell

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38 Defendant My Daily Choice, Inc. and Third
39 Party Defendants Josh Zwagil, Jenna Zwagil,
40 and Karli Thomas

41 IT IS SO ORDERED:



42 UNITED STATES DISTRICT JUDGE

43 DATED: 3-8-2022